

HONOURABLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.19967 OF 2001

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DATE:16-03-2006

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Between:

T. Gangappa S/o. T. Ramaiah,
aged 48 years, R/o. Mavatoor,
Penukonda Mandal, Anantapur District.

.. Petitioner

AND

The Industrial Tribunal-cum-Labour Court,
Anantapur & another

.. Respondents

HONOURABLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.19967 OF 2001

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ORDER:

This writ petition has been filed by the petitioner to quash the award passed by the Labour Court, Anantapur-1st respondent in I.D. No.304 of 1998 dated 26-06-2000 in so far as not reinstating the petitioner into service with continuity of service and back wages, and consequently direct the 2nd respondent to extend the benefit of continuity of service and back wages.

The case of the petitioner is that he was employed as Conductor in A.P. State Road Transport Corporation (for short 'Corporation') in 1983 and his services were regularized in 1983. The petitioner states that on 27-10-1996, while he was on duty in bus bearing No.AP9Z – 2078 on route Hindupur to Roddam, a check was conducted by the checking officials at stage No.6/7 and thereafter issued charge sheet dated 18-11-1996 with the following charges:

- 1) For having violated the rule issue and start which constitutes misconduct under Reg. 28(xxxi) of APSRTC Employees (Conduct) Reg. 1963.
- 2) For having collected an amount of Rs.2/- and failed to issue ticket to a passenger who boarded the bus at Dommatimarri and found alighting at Neredukunta ex-stages 6 to 6/7 which constitutes misconduct under Reg.28(vi)(a) & (x) of APSRTC Employees (Conduct) Reg. 1963.
- 3) For having collected an amount of Rs.8-00 (Rs.2/- each) from four passengers who boarded the bus at Dommatimarri Thota and bound for venkatapuram ex-stages 6 to 7 and failed to issue tickets which constitutes misconduct under Reg. 28(vi)(a) and (x) of APSRTC Employees (conduct) Reg. 1963.
- 4) For having refused to sign on the 2nd passenger's statement recorded at the time of check by the TTIs which constitutes misconduct under Reg. 28 (xviii) of APSRTC Employees (conduct) Reg. 1963.
- 5) For having refused to accept the charge memo prepared by the TTIs and also misbehaved with them at the time of check which constitutes misconduct under Reg. 28(xxi) of APSRTC Employees (conduct) Reg. 1963.

The petitioner submitted his explanation dated 18-11-1996 denying the charges framed against him, and it is the case of the petitioner that the respondents without considering the same, conducted the enquiry, and based on the report of the enquiry officer which held that all the charges were proved, the disciplinary authority issued a show cause notice dated 03-04-1997 and finally vide proceedings dated 07-05-1997 removed the petitioner from service. The appeal and the revision preferred by the petitioner were also rejected vide proceedings dated 14-02-1998 and

17-06-1998. Hence, the petitioner raised industrial dispute in I.D. No.304 of 1998 before the Labour Court. It is the case of the petitioner that the Labour Court without properly appreciating the evidence on record, directed the Corporation to appoint the petitioner as Conductor afresh without any back wages and continuity of service. Hence, the present writ petition has been filed seeking direction to the Corporation to grant relief of reinstatement with continuity of service and back wages.

Heard the learned counsel for the petitioner as well as the 2nd respondent and perused the material on record.

Learned counsel for the petitioner contends that the petitioner through out his service worked without any remark, and the misconduct alleged against the petitioner is erroneous. He contends that the Labour Court failed to see that the passenger who boarded the bus at Stage No.6, Dommatimarri and four more passengers boarded the bus a furlong away from the stage and he has tendered Rs.10/- towards the fare of five passengers and when he was in the act of issuing

the tickets and punched five tickets of Rs.2/- denomination, the checking officials boarded the bus, forcibly collected the punched tickets and fare and foisted a case against the petitioner. He contends that the petitioner refused to sign on the statement given by the passenger is misconceived. He further contends that the Labour Court failed to see that the Corporation did not examine any of the passengers and even the driver of the vehicle, except the checking official who is an interested witness, as such, it is clear that there is no irregularity committed by the petitioner and the charges framed against the petitioner are false and baseless. The charges levelled against the petitioner are concocted one, hence denial of reinstatement of the petitioner with continuity of service and back wages is disproportionate to the misconduct alleged. He submits that the impugned award is against the principles of natural justice and not at all justifiable, and as such, prayed that the Corporation be directed to reinstate the petitioner into service with continuity of service and back wages.

The respondents filed counter. Learned Standing Counsel for the Corporation reiterated the counter averments and supported the impugned award stating that there is no infirmity or illegality warranting interference of this Court. Hence, he prays to dismiss the writ petition.

From a perusal of the material record, the main charges levelled against the petitioner are that while conducting the bus bearing No.AP9Z – 200078 on route Hindupur to Roddam on 27-10-1996, the petitioner failed to observe the rule 'Issue and Start', having collected an amount of Rs.2 from a passenger, who boarded the bus at Dommatamarri and found alighting at Neredukunta, and an amount of Rs.8/-, at Rs.2/- from 4 passengers, who were traveling between ex-stages 6 to 7, failed to issue tickets to them, refused to sign on the passenger's statement and accept charge memo and also misbehaved with the TTIs at the time of check.

The Corporation held a domestic enquiry and the enquiry officer found that all the charges were proved against the petitioner and basing on the report of the enquiry officer, after serving all the material documents to the petitioner and giving a reasonable opportunity to explain as to why he should not be removed from service, the Corporation removed the petitioner from service, since the explanation submitted by him was not satisfactory. Against which the petitioner raised an appeal and revision and the same were rejected. Aggrieved by the same, the petitioner raised industrial dispute before the Labour Court and the Labour Court after an elaborate consideration of the matter and upon appreciating the material available on record, observed that the charges levelled against the petitioner are proved beyond reasonable doubt and the punishment imposed by the Corporation is justified but is disproportionate to the gravity of the charge. Therefore, the Labour Court, taking into consideration that the petitioner alone is the breadwinner of his family, directed the Corporation to appoint the petitioner afresh as Conductor to meet the ends of justice. Had the Labour Court held that the charges leveled against the petitioner are not proved, then the petitioner would have been justified in contending that he should be awarded continuity of service and backwages, but that is not the case, the Labour Court having held that the charges leveled against the petitioner are proved, has

taken a lenient view and ordered fresh appointment.

The award passed by the Labour Court is a discretionary one and such an order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Labour Court in denying the reinstatement of the petitioner with continuity of service and back wages and directing the Corporation to appoint him as Conductor afresh in the Corporation, in exercise of its discretionary power.

In the above view of the matter, I am not inclined to accept the contentions urged by the learned counsel for the petitioner in support of the writ petition that the punishment imposed against the petitioner is disproportionate to the misconduct alleged.

The Writ Petition is devoid of merits, and the same is accordingly dismissed.
No costs.

N.V. RAMANA, J.

Date:16th March, 2006.

KSR